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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 12 November 2013 from the Permanent Mission of the Republic of Korea to the United Nations addressed to the Committee

The Permanent Mission of the Republic of Korea presents its compliments to the Security Council Committee established pursuant to resolution 1540 (2004) and has the honour to refer to the Committee Chair's letter dated 27 February 2013 requesting the submission of additional information on the implementation of resolution 1540 (2004).

The enclosed report to the Committee is a comprehensive update of the Republic of Korea's laws, policies, projects and initiatives to prevent and combat the proliferation of weapons of mass destruction, their delivery systems and related materials to non-State actors. The report also includes a range of best practices for enhancing the implementation of resolution 1540 (2004), including the national export control system, measures relating to illicit brokering, and the whole-of-government approach (see annex).

The Republic of Korea would like to take this opportunity to request that the enclosed report be posted on the Committee's website.

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Annex to the note verbale dated 12 November 2013 from the Permanent Mission of the Republic of Korea to the United Nations addressed to the Committee

Third report of the Republic of Korea on the implementation of Security Council resolution 1540 (2004)

I. Introduction

1. Since the unanimous adoption of Security Council resolution 1540 (2004) on 28 April 2004, the Republic of Korea has been strongly committed to its full implementation. The Republic of Korea is actively participating in the global efforts to prevent the proliferation of weapons of mass destruction, and is fully complying with its international obligations under disarmament and non-proliferation treaties, as well as major multilateral export control regimes.

2. The Republic of Korea has taken significant steps to strengthen its implementation of resolution 1540 (2004) since the submission of its first report in 2004 and its second in 2005 (S/AC.44/2004/(02)/24 and Add.1). This includes the adoption and enforcement of various legislative measures to more effectively prevent and counter the proliferation of weapons of mass destruction, including through various measures to strengthen its controls against the illicit trafficking of such weapons and related materials. The primary objective of this report is to provide, pursuant to paragraph 7 of resolution 1977 (2011), additional information on the Republic of Korea's implementation of resolution 1540 (2004), including best practices, with a focus on the progress made since the submission of its previous two reports.

3. The Republic of Korea has been a staunch supporter of the activities of the Committee to promote the full implementation of resolution 1540 (2004). As we approach the tenth anniversary of the adoption of the resolution, and as the current Chair of the Committee, the Republic of Korea reaffirms its firm commitment to promoting full and universal implementation of the resolution. The Republic of Korea pledges its continuing support for the activities of the Committee to achieve this crucial goal.

II. Additional information on the implementation of resolution 1540 (2004)

1. Paragraph 2

Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

4. The Government of the Republic of Korea is taking steps to amend the Act on Physical Protection and Radiological Emergency to introduce key elements of the 2005 Amendment to the Convention on the Physical Protection of Nuclear Materials

and the International Convention for the Suppression of Acts of Nuclear Terrorism into national legislation. These amendments are expected to further strengthen the existing penalty provisions on nuclear-related offences.

5. With regard to chemical and biological weapons and their related materials, in 2006, the Republic of Korea enacted the Act on the Prohibition of Chemical and Biological Weapons and the Control of the Production, Import and Export of Specific Chemicals and Biological Agents, comprehensive legislation that prohibits and criminalizes activities relating to biological weapons and biological agents as well as chemical weapons and specific chemicals.

6. In 2008, the Government enacted the Act on the Prohibition of Financing for Offences of Public Intimidation, establishing the legal basis for the prohibition and criminalization of financing terrorist acts, including, for example, possession, stockpiling or use of nuclear materials, or acts of sabotage on nuclear facilities. The Financial Services Commission is currently taking steps to amend the aforementioned Act to tighten controls on proliferation financing. The proposed amendment imposes restrictions on the financial transactions of a broader category of persons, including those involved in not only "terrorist financing" but also "weapons of mass destruction proliferation financing", and contains new provisions criminalizing not only acts of terrorist financing but also the planning or conspiring of such acts.

2. Paragraph 3 (a) and (b)

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

(b) Develop and maintain appropriate effective physical protection measures;

7. In October 2011, the Republic of Korea established the Nuclear Safety and Security Commission, an independent government body that regulates and oversees national nuclear safety, security, safeguards and export control measures and policies. The Korea Institute of Nuclear Non-proliferation and Control, one of the subordinate organizations of the Nuclear Safety and Security Commission, was established in 2006 to effectively carry out national measures relating to the physical protection, safeguards and export control of nuclear materials for nuclear non-proliferation and security.

8. The Government is stepping up its efforts to fully implement the Nuclear Security Recommendations on Physical Protection of Nuclear Material and Nuclear Facilities (INFCIRC/225/Rev.5) of the International Atomic Energy Agency (IAEA) and is taking the necessary steps to amend the Presidential Decree relating to the Act on Physical Protection and Radiological Emergency to reflect those recommendations.

9. In accordance with the Nuclear Safety Act, the Government is conducting periodic national reviews on nuclear facilities to ensure that all of its nuclear material is effectively accounted for and secured. With a view to further promoting

national capacity in nuclear security and to enhance confidence, the Government invited the IAEA International Phys cal Protection Advisory Service. The Advisory Service mission is scheduled to be conducted in February 2014.

10. Through the implementation of the Act on the Prohibition of Chemical and Biological Weapons and the Control of the Production, Import and Export of Specific Chemicals and Biological Agents (2007), the Government is exercising comprehensive and effective control over chemical and biological weapons-related material. The Act requires Government licences for the production of chemicals included in schedule 1 of the Chemical Weapons Convention and requires reporting on the production of, and other related activities involving, all chemicals included in the Chemical Weapons Convention schedules as well as biological agents.

3. Paragraph 3 (c) and (d)

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

A. Control of export, brokering, transit and trans-shipment

11. As stated in the Republic of Korea's first national report, submitted in October 2004, the country is implementing strict export control over weapons of mass destruction and their related materials. The export of any item designated as a "strategic item" under the Foreign Trade Act requires an export licence from relevant government agencies: the Minister of Trade, Industry and Energy for dual-use items and general defence materials; the Chairman (Chief Regulatory Officer) of the Nuclear Safety and Security Commission for nuclear material and technology; and the Administrator of the Defence Acquisition Programme for items closely related to national defence.

12. The Republic of Korea maintains a control list of strategic items, published in the Public Notice on Trade of Strategic Items. The Public Notice reflects the most up-to-date list of controlled items under all major multilateral export control regimes, including the Nuclear Suppliers Group, the Missile Technology Control Regime, the Australia Group and the Wassenaar Arrangement.

13. The Republic of Korea introduced a catch-all control system through the amendment of the Presidential Decree relating to the Foreign Trade Act in 2003 and the amendment of the Foreign Trade Act in 2007. Based on these provisions, a licence is required when exporting, transiting, trans-shipping or brokering in items

that are not designated strategic items as such but are nonetheless likely to be diverted for the purposes of the manufacture, development use or storage of weapons of mass destruction or their means of delivery (herein after referred to as "catch-all items").

14. Through the amendment of the Foreign Trade Act in January 2007, the Republic of Korea further tightened export control by requiring any Republic of Korea national residing in the Republic of Korea who intends to broker the sale or purchase of strategic items from a third country to another to obtain a licence. Through further amendment of the Act in July 2013, the Government extended the scope of the brokering licence requirement, from Republic of Korea nationals residing in the Republic of Korea to all Republic of Korea nationals and foreigners residing in the Republic of Korea and from strategic items to all catch-all items.

15. Under the amended Foreign Trade Act, Government authorities are now given the mandate to temporarily stop national or international movement of strategic items or catch-all items if the items were illegally exported from the Republic of Korea.

16. Through the amendment of the Foreign Trade Act in April 2009, the Government introduced a licence requirement for transit through domestic ports or airports, and trans-shipment within the territory of the Republic of Korea, of strategic and catch-all items.

B. Border control and law enforcement

17. The Republic of Korea amended the Customs Act in December 2011 to authorize customs inspection if and when it is necessary to "prevent acts of violations of treaties and other rules of international law", thereby strengthening the legal basis for the control of illicit movement and transfer of weapons of mass destruction and their means of delivery in accordance with international law. In 2011, the Government also introduced a system whereby importers and exporters are required to submit the shipping list of items to be imported or exported well in advance of their shipment, thereby providing the Customs Office with adequate time to screen suspected items in advance and conduct thorough inspections of suspected items.

18. The Government uses the vessel selectivity system to electronically screen ships with a high likelihood of being used for crimes such as terrorism or smuggling. Strict, on-board inspections are carried out on vessels that are selected by the vessel selectivity system.

19. In April 2009, the Republic of Korea introduced the "authorized economic operator" system. Through various incentives to companies that satisfy international safety and control standards and criteria, such as prompt customs clearance and exemption from inspection, the authorized economic operator system encourages efforts by the industry to take voluntary control measures.

20. The Republic of Korea implements the Public Notice on the Customs Clearance of Strategic Items, which sets out specific procedures for the customs clearance of controlled items, including the shipper's export declaration and customs inspection.

C. Control of proliferation financing

21. In 2008, the Government enacted the Act on the Prohibition of Financing for Offences of Public Intimidation, which provides the legal basis for the prohibition and penalization of financing terrorist acts. The Financial Services Commission is taking steps to amend this Act to strengthen controls on proliferation financing (see para. 6 above).

D. Penalty provisions for violations

22. Under the Foreign Trade Act, a person who engages in the export, transit, trans-shipment or brokerage of controlled items without a licence will be subject to imprisonment or a fine. Those who engage in the aforementioned acts for the purpose of international proliferation of controlled items will be subject to a maximum imprisonment of seven years or a maximum fine of five times the value of the items. (The penalty provisions relating to illicit transit and trans-shipment were newly established through the amendment of the Foreign Trade Act in July 2013.) The Government may also impose export/import restrictions for a maximum of three years if a person exports controlled items without a licence or violates principles of the international export control system.

23. Under the Act on the Prohibition of Financing for Offences of Public Intimidation, any person who raises, possesses, supplies or transports funds used for terrorism, or who provides funds to those subject to restrictions on financial transactions without a government licence, shall be subject to a maximum imprisonment of 10 years or a maximum fine of 100 million won. The Financial Services Commission is taking steps to amend the above Act to introduce new provisions that also criminalize "planning or conspiring" of terrorist or proliferation financing.

E. Strengthening control of strategic items

24. The Republic of Korea established the Strategic Trade Information System (Yes Trade) in 2005 and the Nuclear Export Promotion Service in 2008. These are online export control systems that provide information related to the export of strategic items and related technologies and allow for the processing of licences and the classification of strategic items.

25. In 2006, the Republic of Korea enacted the Defence Acquisition Programme Act and established the Defence Acquisition Programme Administration to control the trade, including import and export, of major defence goods and technologies. In 2012, the Defence Technology Control Bureau was established as a specialized organ of the Defence Acquisition Programme Administration to effectively enhance the security of defence technology.

26. In 2007, the Korea Strategic Trade Institute was established as a specialized organization to support the effective implementation of export control, including strategic items classification, management of the online Strategic Trade Information System, and export control training.

27. In 2008, the Government established an inter-agency Council on Export and Import Control of Strategic Items, which convenes periodically to discuss issues related to export control.

28. In 2005, the Government introduced the Internal Compliance Programme to encourage and promote voluntary, corporate-led export control efforts. Through this programme, companies with sufficient capacity in management and control of strategic items are designated as "Internal Compliance Programme enterprises" and are provided a certain degree of autonomy in implementing export control and other related measures. In July 2013, the Foreign Trade Act was amended to also include universities and research institutes in the Internal Compliance Programme.

F. Control of intangible transfer of technology

29. With a view to addressing the threats posed by the proliferation of weapons of mass destruction-related technologies that are transferred via electronic means or personal contacts, the Government amended the Foreign Trade Act in 2013 to tighten controls on intangible transfer of technology relating to weapons of mass destruction and their means of delivery. Under the amended Act, which will come into force as of January 2014, government licences will be required for all cases where technologies related to strategic items are transferred overseas, or where a Republic of Korea national, whether in the Republic of Korea or in a foreign country, engages in the transfer of such technologies to foreign nationals.

4. Paragraphs 7 and 8 (a)

7. Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

8. Calls upon all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

30. Since joining the Global Partnership against the Spread of Weapons and Materials of Mass Destruction in June 2004, the Republic of Korea has made a financial contribution of $6.3 million to various joint projects aimed at strengthening the non-proliferation of weapons of mass destruction and the control of weapons of mass destruction-related materials. These projects include, inter alia, strengthening the physical protection of nuclear facilities, dismantling used nuclear submarines, preventing nuclear smuggling and enhancing biosecurity.

31. The Nuclear Safety and Security Commission and the Korea Institute of Nuclear Non-proliferation and Control have been cooperating on a bilateral basis with Governments in the Asia-Pacific region and those Governments seeking to build nuclear plants. Such cooperation includes providing training, technical cooperation and advisory services on export control and nuclear security. The

Republic of Korea plans to develop the International Nuclear Security Academy, a centre of excellence on nuclear security, which will open in February 2014 in Daejeon, Republic of Korea, into a regional hub of education and training in nuclear security, export control and nuclear safeguards.

32. Since 2011, the Ministry of Trade, Industry and Energy and the Korea Strategic Trade Institute have co-hosted annual outreach events on export control, with a view to raising awareness and fostering a sound culture among relevant government agencies, industry, academia and the public through joint seminars, exhibitions and award ceremonies.

33. In March 2012, the Seoul Nuclear Industry Summit and the Seoul Nuclear Security Symposium were held as side events of the 2012 Seoul Nuclear Security Summit, with the objective of promoting public awareness on the issue of nuclear security. The Republic of Korea plans to hold another international symposium on nuclear security in February 2014, on the occasion of the opening of the International Nuclear Security Academy.

5. Paragraph 8 (a), (b) and (c)

8. Calls upon all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

34. The Republic of Korea has been actively participating in international efforts to promote the adoption, full implementation and strengthening of multilateral treaties on the non-proliferation of weapons of mass destruction. The Republic of Korea has been strongly committed to efforts to strengthen the Nuclear Non-proliferation Treaty regime, to facilitate the early entry into force of the Comprehensive Nuclear-Test-Ban Treaty, and to bring about the early commencement of the negotiations on the fissile material cut-off treaty. The Republic of Korea is taking part in the Group of Eminent Persons to facilitate the entry into force of the Comprehensive Nuclear-Test-Ban Treaty, which was launched in September 2013. The Republic of Korea and the United Nations co-chaired the High-level Meeting on Countering Nuclear Terrorism, with a Specific Focus on Strengthening the Legal Framework, held in New York on 28 September 2012.

35. The Government of the Republic of Korea obtained the National Assembly's approval for the ratification of the 2005 Amendment to the Convention on the Physical Protection of Nuclear Material and of the International Convention for the

Suppression of Acts of Nuclear Terrorism in December 2011. Once the amendment of the Act on Physical Protection and Radiological Emergency is completed (see para. 4 above), the Government will deposit its instruments of ratification of these Conventions with IAEA and the United Nations.

36. The Republic of Korea has been holding annual bilateral consultations with IAEA regarding technical cooperation on nuclear security since 2003. It has also made financial contributions to the IAEA Nuclear Security Fund since 2002, providing $1 million in 2012 and in 2013.

37. The Government of Korea is also closely cooperating with the United Nations and the Organization for the Prohibition of Chemical Weapons in the ongoing efforts to eliminate the Syrian Arab Republic's chemical weapons, pursuant to Security Council resolution 2118 (2013). In October 2013, the Government pledged a financial contribution of $1 million to the trust fund created by the secretariat of the Organization for the Prohibition of Chemical Weapons to support its activities relating to the destruction of the Syrian Arab Republic's chemical weapons.

6. Paragraphs 9 and 10

9. Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical or biological weapons, and their means of delivery;

10. Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

38. In May 2007, the Republic of Korea joined the Global Initiative to Combat Nuclear Terrorism and has since been actively participating in its activities to strengthen global capacity to prevent nuclear terrorism. As a part of these efforts, the Republic of Korea hosted the plenary meeting of the Global Initiative to Combat Nuclear Terrorism and the Implementation Assessment Group in June 2011. At the eighth plenary meeting of the Initiative, held in May 2013 in Mexico City, the Republic of Korea was elected Coordinator of the Implementation Assessment Group for the period from 2013 to 2015.

39. The Republic of Korea hosted the Seoul Nuclear Security Summit on 26 and 27 March 2012, where 53 Heads of State and the representatives of the United Nations, IAEA, the European Union and the International Criminal Police Organization (INTERPOL) came together to reaffirm their political commitment at the highest level and adopted the Seoul Communiqué, which sets out concrete steps and practical measures to strengthen nuclear and radiological security.

40. Since joining the Proliferation Security Initiative in 2009, the Republic of Korea has placed high policy priority on advancing the objectives of the Initiative, and has been actively participating in its activities. In 2010, the Government of the Republic of Korea hosted its first maritime interdiction exercise, "Eastern Endeavour 10", and a regional Proliferation Security Initiative workshop. In September 2012, the Republic of Korea hosted the annual Operational Experts Group meeting in Seoul and its second maritime exercise, "Eastern Endeavour 12", in the high seas near Busan.

41. At the high-level political meeting marking the tenth anniversary of the Proliferation Security Initiative, held in Warsaw on 28 May 2013, in which the Republic of Korea participated as one of the session chairs, the Republic of Korea announced that it will participate in the regional interdiction exercise rotation among six Asia-Pacific countries, namely the Republic of Korea, the United States of America, Japan, Australia, New Zealand and Singapore, and will be hosting its third maritime interdiction exercise in 2019. The introduction of the exercise rotation system is expected to facilitate effective cooperation and enhance joint interdiction capabilities among regional partners in the Asia-Pacific region.

42. In May 2012, the Republic of Korea hosted the Conference on Financing of the Proliferation of Weapons of Mass Destruction in Seoul, where more than 60 experts from 14 Asia-Pacific States, panels of experts of Security Council sanctions committees and the Financial Action Task Force gathered to discuss effective ways to combat weapons of mass destruction proliferation financing.

43. The Republic of Korea has been co-hosting the United Nations-Republic of Korea Joint Conference on Disarmament and Non-proliferation Issues annually since 2002. The twelfth Conference, on "Non-proliferation Regime in the Twenty-first Century: Challenges and the Way Forward", to be held on 14 and 15 November 2013, will focus on ways to enhance the full and universal implementation of Security Council resolution 1540 (2004) in the years ahead.